

Sharda Devi and ors. Vs. the State of Uttar Pradesh and ors.

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Court : Allahabad

Decided On : Jul-11-1989

Reported in : I(1990)ACC194

Judge : N.N. Mithal and G.D. Dubey, JJ.

Appellant : Sharda Devi and ors.

Respondent : The State of Uttar Pradesh and ors.

Judgement :

N.N. Mithal, J.

1. This is an appeal against the decision of the Motor Accident Claims Tribunal, Bulandshahr dismissing the claim petition on the ground that the claimant had failed to establish that the accident was caused by Jeep No. U.P.P. 5330.'

2. After having heard learned Counsel for the appellant we find that according to the case established by the appellant the deceased, who was about 22 years' age, along with his student friends, was going in Bus No. UTW 7271 from Etawah to Delhi to see an exhibition. On their way, a few Kilometers before Bulandshahr, they stopped the Bus so that the students may take tea at a tea shop which was on the north side of the road. The students were taking tea in batches. It is also established that while the deceased was crossing the road in order to reach the said shop he was hit by a vehicle coming at fast speed from Sikandarabad side.

The vehicle-after causing serious injuries to the deceased went towards Bulandshahr. He was taken to the hospital, Bulandshahr but ultimately he succumbed to his injuries. A claim was put forward by his brothers and sisters.

3. The main question which needs determination in this case is as to whether the vehicle, which is said to be the offending vehicle, was Police Jeep No. U.P.P. 5330. In the F.I.R., which was lodged immediately after the death of the victim in the hospital, jeep number etc. is not mentioned. There is no other satisfactory evidence to establish that infact the aforesaid jeep was involved in the accident and caused injuries to the deceased. The Tribunal has gone into the evidence which has been led by the parties in this behalf in detail and has recorded very convincing and cogent findings that the claimants had miserably failed to establish this crucial fact. The evidence of the driver of the offending vehicle is also very specific that on 9 Dec, 1977 he had gone to Dadri to escort the Chief Minister and has given details of the places where he remained on duty as a driver of the jeep. According to him, he had returned to the police lines at 4 PM on 9th December, 1977 whereafter the vehicle was taken to the garage for removing certain defects therein and it remained in the garage up to 14th Dec, 1977. On the basis of all this evidence the Tribunal recorded specific findings that there was no proof of involvement of this vehicle in the accident which caused fatal injuries to the deceased.

4. The learned Counsel for the appellant has also not been able to show material evidence on record which may induce us to take different view of the evidence adduced by the parties.

5. Before we part this appeal it may be mentioned that the appeal has already been dismissed against respondent Nos. 2 & 4 on account of appellants' failure to take steps for service on them. This fact, however, will not effect adversely the maintainability of the appeal. .

6. In the result we find no merit in this appeal which is accordingly dismissed. However, there will be no order as to costs.

